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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/005,575	11/07/2001	Hai-Fang Yun	10016741-1	8126

7590 03/15/2004
HEWLETT-PACKARD COMPANY
Intellectual Property Administration
P.O. Box 272400
Fort Collins, CO 80527-2400

EXAMINER

NGUYEN, THAN VINH

ART UNIT	PAPER NUMBER
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2187

DATE MAILED: 03/15/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/005,575

Applicant(s)

YUN ET AL.

Examiner

Than Nguyen

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on ____.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-21 is/are pending in the application.
- 4a) Of the above claim(s) ____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) ____ is/are allowed.
- 6) ☒ Claim(s) 1-21 is/are rejected.
- 7) ☐ Claim(s) ____ is/are objected to.
- 8) ☐ Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 07 November 2001 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. ____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- ☒ Notice of References Cited (PTO-892)
- ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date ____.
- ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. ____.
- ☐ Notice of Informal Patent Application (PTO-152)
- ☐ Other: ____.



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APPLICATION NO./ CONTROL NO.	FILING DATE	FIRST NAMED INVENTOR / PATENT IN REEXAMINATION	ATTORNEY DOCKET NO.
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EXAMINER

ART UNIT	PAPER
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2

DATE MAILED:

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Commissioner for Patents

DETAILED ACTION

1. Claims 1-21 are pending.
2. The title of the invention is not descriptive. A new title is required that is clearly indicative of the invention to which the claims are directed.

The following title is suggested: Dynamically Adjustable Cache Filling of Streaming Media Data.

Claim Rejections - 35 USC § 112

1. Claims 1- 7 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.
2. As to claim 1, it is unclear as what is meant by “increasing said cache from said first level to an optimum level concurrent with data outputting”. Does Applicant mean increasing the cache fill rate or increasing the cache fill level?
 - a. What does “concurrent with data outputting” mean?
 - b. What is meant by “adjusting the level of said cache concurrent with incoming data and data outputting”? Is the filling rate being adjusted or the cache level being adjusted.
 - c. What is meant by “a maximum cache level”? Is this level the optimum level 306 or the cache full level 308?

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Applicant's use of terminology is very vague and ambiguous. For example, "cache level" or "level of said cache" should be replaced with --cache level indicator--.

3. Claims 2-7 are also rejected for incorporating the deficiencies of claim 1.

Claim Rejections - 35 USC § 102

4. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in a patent granted on an application for patent by another filed in the United States before the invention thereof by the applicant for patent, or on an international application by another who has fulfilled the requirements of paragraphs (1), (2), and (4) of section 371(c) of this title before the invention thereof by the applicant for patent.

The changes made to 35 U.S.C. 102(e) by the American Inventors Protection Act of 1999 (AIPA) and the Intellectual Property and High Technology Technical Amendments Act of 2002 do not apply when the reference is a U.S. patent resulting directly or indirectly from an international application filed before November 29, 2000. Therefore, the prior art date of the reference is determined under 35 U.S.C. 102(e) prior to the amendment by the AIPA (pre-AIPA 35 U.S.C. 102(e)).

5. Claims 1-21 are rejected under 35 U.S.C. 102(e) as being anticipated by Kadansky et al (US 6,507,562).

As to claim 1,8,15:

6. Kadansky teaches a multicast communication system comprising a bus, displacer, memory unit and processor. Kadansky teaches filling a cache with incoming data to a first level, said filling at a rate relative to said incoming data (caching data packets; 14/20-25); increasing said cache from said first level to an optimum level concurrent with data outputting (dynamically

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adjust transmission rate of data from cache; 14/36-53); and adjusting the level of said cache concurrent with incoming data and data outputting to prevent said level of said cache from exceeding a maximum cache level and to prevent said level of said cache from decreasing below said first level, such that continuous streaming outputting of said data is provided (dynamically adjust transmission rate of data from cache to prevent cache from being full; 14/36-53).

As to claim 2,9,16:

7. Kadansky teaches data outputting is enabled subsequent to said level of said cache attaining said first level (14/50-53).

As to claim 3,10,17:

8. Kadansky teaches said increasing of said cache level from said first level to said optimum level further comprises altering said rate of incoming data incoming to a rate greater than the rate of said data outputting (14/45-50).

As to claim 4,11,18:

Kadansky teaches said adjusting of said cache level further comprises increasing said rate of incoming data at a percentage relative to the percentage at which the cache level is below said optimum level (14/36-53)

As to claim 5,12,19:

9. Kadansky teaches said adjusting of said cache level further comprises decreasing said rate of incoming data at a percentage relative to the percentage at which the cache level is above said optimum level (14/36-53).

As to claim 6,13,20:

10. Kadansky teaches said data is streaming data (34/20-23).

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As to claim 7,14,21:

11. Kadansky teaches the cache is a memory unit.

Conclusion

12. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Than Nguyen whose telephone number is 703-305-3866. The examiner can normally be reached on 8am-3pm M-F.

13. If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Don Sparks can be reached on 308-1756. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

14. Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



Than Nguyen
Examiner
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